

1   **Remarks**

2           The examiner objected to the drawings under 37 CFR 1.83(a)  
3 because the drawings do not show every feature described in the  
4 specification and in the claims. Specifically the examiner  
5 objected to Fig. 1 in that it does not show an upper level aisle  
6 for viewing of motion pictures by disabled persons. This drawing  
7 has been corrected to overcome this objection.

8           Also Fig. 4 has been corrected to more accurately show the  
9 viewing aisle for disabled persons 30 and the front wall 39 of  
10 the upper viewing level. Prior to the correction numeral 39 did  
11 not correctly show the front wall of the upper level nor was the  
12 front wall fully drawn on Fig. 4.

13           The examiner rejected claims 11-15 under 35 U.S.C. 103(a)  
14 as being unpatentable over U.S. Patent Number 6,407,798 B2  
15 Graves, et al, in view of U.S. Patent Number 6,164,018 Runge, et  
16 al.

17           The Graves, et al invention is for a theater that has  
18 changeable screens for purposes of showing different types of  
19 motion picture formats. There is no separation of viewing levels  
20 for different classes of patrons and only one single theater is  
21 described.

22           Runge, et al, discloses a building with multiple theaters of  
23 a like kind located in the building. The theaters are for  
24 showing of a single kind of motion picture format and have a  
25 single mezzanine area with a single concession facility.

26           Claim 11 of the present invention describes a structure with  
27 a plurality of theaters with two segregated levels for two  
28 classes of patrons and a separate middle level for a motion

1 picture projection camera. There are separate entrance and exit  
2 facilities for the upper seating level and the lower seating  
3 level and a separate mezzanine and concession facility for the  
4 upper seating level and lower seating level.

5 Claim 12 extends claim 11 to describe a structure of all of  
6 the features of claim 11 and also having a plurality of theaters  
7 in the structure that include at least one large format film  
8 picture theater and at least one regular motion picture theater.

9 Claim 13 extends claim 11 to describe a structure of all of  
10 the features of claim 11 with each segregated seating level  
11 having seating for disabled persons at areas other than at the  
12 very front of the theater.

13 Claim 14 extends claim 11 to describe a structure of all of  
14 the features of claim 11 with multiple sound speakers empirically  
15 placed to eliminate dead spots in sound in the theater.

16 Claim 15 describes a structure for viewing theatrical  
17 presentations with a plurality of individual theaters at least  
18 one of which individual theater has a screen for viewing regular  
19 formatted motion pictures and at least one of which has a screen  
20 for viewing a large format motion picture.

21 A prima facie case of obviousness has not been established.

22 It is submitted that a prima facie case of obviousness has  
23 not been established. To establish a prima facie case of  
24 obviousness three basic criteria must be met. First there must  
25 be some suggestion or motivation, either in the references  
26 themselves or in the knowledge generally available to one of  
27 ordinary skill in the art, to modify the reference or to combine  
28 reference teachings. Second there must be a reasonable

1 expectation of success. Finally, the prior art reference (or  
2 references when combined) must teach or suggest all the claim  
3 limitations. In Re Vaeck 947 F.2d 488, 20 U.S.P.Q.2d 1438  
4 (Fed.Cir. 1991)

5 There is a lack of motivation to combine references in the prior  
6 art:

7 In the case In Re: Rouffet 149 F.3d 1350, 1357, 47 U.S.P.Q.  
8 1453, 1457-58 (Fed.Cir. 1998) the court held in pertinent part:

9 There are three possible sources for a motivation  
10 to combine references: the nature of the problem to be  
11 solved, the teachings of the prior art, and the  
12 knowledge of persons of ordinary skill in the art.

13 The present invention solves three basic problems. First  
14 the present invention provides for the saving of construction  
15 costs(and ongoing structural costs.) Second the present  
16 invention provides for different facilities for the showing of  
17 differently formatted motion pictures. Third the present  
18 invention provides for completely segregated facilities for  
19 different classes of patrons.

20 Runge, et al, discloses a building with multiple theaters in  
21 order to solve the first problem, that of the saving of  
22 construction costs. However this patent fails to solve the  
23 problem of needing different formatted theaters in a single  
24 building so that the Runge invention only partially solves the  
25 problem of the savings in construction costs for a theater  
26 structure. The Graves invention does not solve the problem of  
27 savings in construction costs recognized by Runge because the  
28 Graves invention provides for only one theater structure in the

1 building. However, the Graves invention does provide for  
2 different screening facilities in the same theater which  
3 inherently would reduce the costs of showing differently  
4 formatted motion pictures in one structure.

5 In summary the Runge invention recognizes the problem of  
6 saving costs of construction of a motion picture theater but only  
7 partially solves the problem in that Runge provides for the  
8 showing of only one format of motion pictures. This would  
9 require separate buildings which defeats the solution to the  
10 problem of savings in construction costs. Graves does not  
11 recognize the problem of construction costs for a theater but  
12 does partially solve the problem by providing for different  
13 formatted motion pictures to be shown in one single theater  
14 structure.

15 The present invention completely solves the problem of  
16 construction cost savings for a theater by providing for multiple  
17 theaters in one single structure and for facilities to also  
18 present differently formatted motion pictures in one single  
19 structure. A further savings in construction costs would also  
20 result for the provision in the present invention to complete  
21 segregate viewing areas for different classes of patrons.

22 The Runge invention does not attempt to explicitly solve the  
23 high costs of theater construction problem so there is no  
24 teaching or motivation to solve this problem. The Graves  
25 invention does not completely solve the costs of theater  
26 construction problem in that the Graves invention fails to  
27 provide for multiple theaters in one building that show  
28 differently formatted motion pictures, nor does Graves provide

1 for completely segregated viewing facilities for different  
2 classes of patrons. The Graves disclosure does not suggest or  
3 provide motivation for completely solving the problem of  
4 construction costs of a theater by including facilities in the  
5 building that can display differently formatted motion pictures.  
6 There is no reasonable expectation of success in combining the  
7 two cited references:

8 The Graves invention provides for showing differently  
9 formatted motion pictures using different screens for the  
10 different formats in one theater. There is no reason to believe  
11 that this invention would successfully solve the problem of the  
12 showing of differently formatted motion pictures. The Runge  
13 invention provides for a building with several theaters for  
14 presenting motion pictures but there is no reason to believe that  
15 this structure would also permit the showing of differently  
16 formatted motion pictures successfully.

17 The prior art references do not teach or suggest all of the claim  
18 limitations:

19 The teaching or suggestion to make the claimed combination  
20 and the reasonable expectation of success must both be found in  
21 the prior art, not in applicants disclosure. In Re Vaeck 947  
22 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed.Cir. 1991)

23 Nowhere in the prior art is there any suggestion for  
24 combining the two cited references.

25 A prima facie case for obviousness is rebutted by teaching away  
26 from the present invention by the prior art

27 In the case In Re Geisler 116 F.3d 1465, 43 U.S.P.Q.2d 1362  
28 (Fed.Cir. 1997) the court held that a prima facie case of

1 obviousness can be rebutted by a showing that the art, in any  
2 material respect, teaches away from the present invention.

3       The Graves invention recognizes that different types of  
4 motion picture theater facilities are needed for different types  
5 of formatted motion pictures and to solve this problem discloses  
6 a motion picture theater with multiple screens in the individual  
7 theater. This teaches away in a material aspect from the present  
8 invention in that the present invention provides for multiple  
9 theaters for viewing differently formatted motion pictures in  
10 lieu of having just one theater with multiple screens. It is not  
11 possible to have both multiple screens and multiple theaters to  
12 solve the problem of providing different facilities for viewing  
13 differently formatted motion pictures.

14       Runge, et al, discloses a building with multiple theaters of  
15 a like kind located in the building. The theaters are for  
16 showing of a single kind of motion picture format and have a  
17 single mezzanine area with a single concession facility. Runge,  
18 et al recognizes the need for savings of the cost of construction  
19 of a theatrical structure and suggests several theaters in one  
20 single building would save on these costs. Thus Runge, et al,  
21 teaches away from the present invention because it is not  
22 possible to have several theaters in one single building for the  
23 showing of one kind of formatted motion picture and for the  
24 showing of different kinds of formatted motion pictures.

25       The teaching away from the present invention by Graves and  
26 Runge and the failure of either Graves and Runge to individually  
27 recognize all of the problems solved by the present invention  
28 preclude the combining of the two cited references in any event.

1 Clearly the present invention is the first to recognize that  
2 it is desirable to combine multiple theaters in one building and  
3 at the same time provide for the showing of different formatted  
4 motion pictures in different theaters. The present invention  
5 goes beyond this and also provides for completely separate  
6 facilities for different classes of patrons a feature not found  
7 in any known prior art.

8 Clearly the results produced by the present invention have  
9 long been sought in the prior art but prior to this invention  
10 have not been produced.

11 For all of the foregoing reasons it is submitted that the  
12 claims are in condition for allowance. Reconsideration of the  
13 rejections and objections is requested. Allowance of claims 11  
14 through 15 at an early date is requested.

15 Respectfully submitted.

16  
17 DATED: MAY 17 2004

LAW OFFICE OF NATHAN BOATNER

18  
19 

20 Nathan Boatner, Attorney  
21 Reg. No. 32856  
22 PMB 692, 7095 Hollywood Blvd,  
23 Los Angeles, CA, 90028  
24 (213) 840-8286  
25  
26  
27  
28